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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,678	07/15/2003	Christopher A. Smith	343.7121USV	7064

7590

07/11/2006

PAUL D. GREELEY, ESQ.  
OHLANDT, GREELEY, RUGGIERO PERLE, L.L.P.  
10th FLOOR  
ONE LANDMARK SQUARE  
STAMFORD, CT 06901-2682

EXAMINER
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BECKER, DREW E

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/619,678

Applicant(s)

SMITH ET AL.

Examiner

Drew E. Becker

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-30 is/are pending in the application.
- 4a) Of the above claim(s) 26-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 09/554,345.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/15/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of group I in the reply filed on 4/17/06 is acknowledged. The traversal is on the ground(s) that the groups claim the same invention. This is not found persuasive because the inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the special technical feature of group I (ie the orifice with a shape which decreases in width in the direction of rotation) is not required in group II.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 26-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group, there being no allowable generic or linking claim.

### ***Priority***

3. The first sentence of the specification should include the current status of the parent application (Pat. No.).

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 1761

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 20-21 and 24-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Wallace et al [Pat. No. 4,706,556].

Wallace et al teach a device comprising a rotatable disc with a radial slot and knife blade (Figure 3, #110, 112, 114), a chute at an acute angle to the disc (Figure 7, #116), an orifice between the chute and disc (Figure 7), the chute extending in the direction of rotation (Figure 7), the orifice being an ovate shape of decreasing width in the direction of rotation (Figures 3 & 7), the radial slot being capable of varying widths by adjusting the blade (Figure 7, #112, 114), and a chute housing (Figure 7, #116).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace et al as applied above, in view of Hughes et al [Pat. No. 3,280,723].

Wallace et al teach the above mentioned components. Wallace et al do not recite an elbow. Hughes et al teach a slicing device comprising a chute with an elbow (Figure 9). It would have been obvious to one of ordinary skill in the art to incorporate the elbow of Hughes et al into the invention of Wallace et al since both are directed to potato slicers,

Art Unit: 1761

since Wallace et al already included a chute (Figure 7, #116), and since the elbow of Hughes et al provided a more compact feeding chute with a higher capacity.

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace et al as applied above, in view of DE 19548209C1.

Wallace et al teach the above mentioned components. Wallace et al do not recite a teardrop shape for the orifice. DE 19548209C1 teaches a device comprising an tear drop shaped orifice (Figure 1). It would have been obvious to one of ordinary skill in the art to incorporate the teardrop shape of DE 19548209C1 into the invention of Wallace et al since both are directed to potato slicers, since Wallace et al already included an ovate orifice, and since teardrop-shaped orifices were commonly used in potato slicers as shown by DE 19548209C1.


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Williams [Pat. No. 4,369,680], Wisdom et al [Pat. No. 4,648,296], Coffield [Pat. No. 4,187,770], Steinberg [Pat. No. 4,196,660], and Homma [Pat. No. 4,817,481] teach slicing devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E. Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Fri. 8am to 4:30pm.

Art Unit: 1761

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
**DREW BECKER**  
**PRIMARY EXAMINER**

7-8-06